

BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY FOR INITIATION OF RULE REVIEW

AGENDA # IV.C.1

AGENDA ITEM SUMMARY: The Board adopted Temporary Water Quality Standards for the New World Mining District in June of 1999, the Board must now initiate its triennial review of those same standards according to the provisions of 75-5-312, MCA.

LIST OF AFFECTED RULES: ARM 17.30.630(1)

AFFECTED PARTIES SUMMARY: Interested parties include residents and visitors of the Cooke City area; water users on the various tributaries of the Upper Yellowstone River; and, individuals interested in the protection of the areas adjacent to Yellowstone National Park. The United States Forest Service, as the agency responsible for cleanup of the New World Mining District, is perhaps the party most affected by the Temporary Water Quality Standards rule.

SCOPE OF PROPOSED PROCEEDING: The Board is in receipt of a progress report from the United States Forest Service (USFS) prepared for the USFS by Maxim Technologies, Inc. In order to execute its statutory responsibilities, the Board must establish a date and a place for a public hearing for which notice and an opportunity for public comment will be provided. It is during this yet to be scheduled public hearing that the Board will review the TWQ standards and implementation plan and consider the progress made to date by the USFS in restoring water quality to a level that achieves the goal of the temporary water quality standards. At the conclusion of the hearing, and after receiving and in consideration of a statutorily required triennial evaluation report from the Department of Environmental Quality, and having considered any public comments provided during the hearing, the Board may modify, terminate, or in the absence of such action, allow the continuance of the current TWQ standards. In addition the Board may modify the Implementation Plan if the evidence indicates that modification is necessary

BACKGROUND: The Consent Decree and Settlement Agreement that resulted in New World Mine buyout by the United States specified that in order to facilitate the performance of the work, the settling parties would support the establishment of Temporary Water Quality Standards for the streams in the New World Mining District. Petitions seeking the establishment of Temporary Water Quality Standards were developed by the United States Forest Service and presented to the Board in the name of Crown Butte Mines. Rulemaking was initiated and Temporary Standards became effective for Daisy Creek, Fisher Creek and a portion of the Stillwater River June 4, 1999. 75-5-312(10) MCA requires the Board to review the Temporary Standards and Implementation Plan at least every 3 years. This is the first 3-year review of the Temporary Standards established for the New World Mining District. The TWQ standards were adopted for a period of 15 years subject to the triennial reviews..

HEARING INFORMATION: Public hearing for this matter is required.

BOARD OPTIONS:

1. The Board may choose to schedule and notice the public hearing as part of its agenda at the next regularly scheduled Board meeting that is scheduled for July 26, 2002.
2. The Board may choose to schedule and notice a public hearing at an extraordinary meeting of the Board.

DEQ RECOMMENDATION: Department recommends that the Board notice this matter for public hearing and that a hearing for this matter be set for the July 2002 Board meeting in Helena.

ENCLOSURES: The following information is attached to this summary:

- 1) Progress Report and 3-year Review document prepared for United States Forest Service by Maxim Technologies, Inc.
- 2) Section 75-5-312, MCA
- 3) A.R.M. 17.30.630